

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GENENTECH, INC., et al.,)

Plaintiff(s),)

v.)

SANOFI-AVENTIS DEUTSCHLAND)
GMBH, et al.,)

Defendant(s).)

No. C08-4909 SI (BZ)

SANOFI-AVENTIS DEUTSCHLAND)
GMBH, et al.,)

Plaintiff(s),)

v.)

GENENTECH and BIOGEN IDEC)
INC.,)

Defendants.)

No. C09-4919 SI (BZ)

NINTH DISCOVERY ORDER

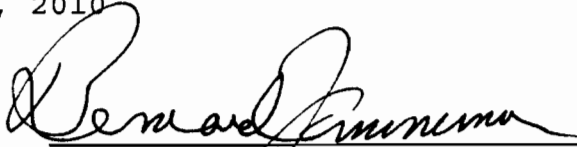
At the October 27, 2010 hearing the parties should be prepared to discuss this possible resolution of Sanofi's motion which the Court is considering:

1. The parties would agree on a neutral testing laboratory to conduct the proposed test. That laboratory would be appointed as a special master under Rule 53. The

1 testing protocol would be developed by the neutral laboratory.

2 2. If the test failed to disclose the presence of HCMV
3 enhancers in the tested cells, Sanofi would agree to dismiss
4 its claims against Avastin® with prejudice.

5 Dated: September 24, 2010

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8 Bernard Zimmerman
United States Magistrate Judge

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